

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

**JOHN CRISTOPHER ELDER,**

**Petitioner,**

**v.**

**No. 4:22-cv-2**

**HAROLD W. CLARKE,  
Director of the Virginia D.O.C.,**

**Respondent.**

**FINAL ORDER**

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner seeks to overturn his 2016 state convictions in the Newport News Circuit Court stemming from his possession of explosive material. As a result of the convictions, petitioner was sentenced to serve a combined total of 14 years in prison with 12 years and 4 months suspended. Petitioner is no longer incarcerated but his suspended sentence remains in effect for 14 years from sentencing and includes conditions such as good behavior.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. Because Petitioner's claims are procedurally defaulted or otherwise barred from federal review or relief, the Magistrate Judge's Report and Recommendation filed May 13, 2022 recommends dismissal of the petition with prejudice. The Report and Recommendation advised parties of their right to object

and the time limit for doing so. The court has received no objections, and the time for filing objections has now expired.

Accordingly, the court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed May 13, 2022, and it is therefore **ORDERED** that Respondent's Motion to Dismiss (ECF No. 8) and Supplemental Motion to Dismiss (ECF No. 16) be **GRANTED**, and that the petition (ECF No. 1) be **DENIED** and **DISMISSED** with prejudice.

Finding that the basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk is directed to mail a copy of this Final Order to Petitioner and provide an electronic copy of the Final Order to counsel of record for Respondent.

Norfolk, Virginia  
July 6, 2022

/s/  
ARENDA L. WRIGHT ALLEN  
UNITED STATES DISTRICT JUDGE